

2009 Session Legislative Wrap-Up – Higher Education

(Report prepared 6/4/09 and updated as of 6/17/09)

Blue and underlined text is linked to legislation as posted on the State's website for the General Assembly at www.scstatehouse.gov

The 2009 session (first regular session) of the 118th South Carolina General Assembly adjourned early on Thursday, May 21, under the provisions of the *sine die* resolution, [H.4000](#). The General Assembly returned for one day on June 16 under the provisions of H.4000 for the primary purpose of addressing gubernatorial vetoes. The Session was adjourned on June 16 under the provisions of *sine die* resolution [S.834](#). Because this session is the first year of the two-year continuing session of the General Assembly, bills introduced in 2009 will carry over into the 2010 Session retaining their same position for consideration.

The following provides summary information on the budget and Appropriations Act ([H.3560](#)) for FY 2009-10 and on legislation relating to higher education that passed during the 2009 session or, if applicable, requires General Assembly action on the Governor's veto as of the end of the session.

Please note that the information provided in this summary is not intended to be a complete summary. Text that is blue and underlined is linked to the latest version of the legislation as posted on the General Assembly's website (www.scstatehouse.gov). Bills and other information may also be accessed from the statehouse website at <http://www.scstatehouse.gov/html-pages/legpage.html>. Additional information about activity during the session may also be found on CHE's website. For weekly updates prepared by CHE staff during the session, see <http://www.che.sc.gov/InfoCntr/CHELegislativeUpdates.htm>.

The Budget – FY 2008-09 Reductions and FY 2009-10 Appropriations

The state's budget received considerable attention during the session, both the current year's budget and also the budget under consideration for FY 2009-10, as the state and nation's economy declined. Discussion of budget reductions began almost immediately as the fiscal year got underway. Ultimately, significant reductions to state agency budgets were enacted for FY 2008-09. As FY 2008-09 revenue expectations declined, so did revenue predictions for FY 2009-10 as the economy continued to falter. During the session, significant federal legislation aimed at getting the U.S. economy back on track was passed and received considerable attention and focus. This legislation, entitled the American Recovery and Reinvestment Act of 2009 (ARRA), was signed into law by President Obama on February 17 and will provide states with the opportunity for significant federal funding across various areas of government, including education, over the next two years. The legislation has been described as "an unprecedented effort to jumpstart our economy, create or save millions of jobs, and put a down payment on addressing long-neglected challenges so our country can thrive in the 21st century." Information about this legislation is available at www.recovery.gov. Below are summary bullets describing S.C. budget reductions for higher education during FY 2008-09 and the budget enacted by the General Assembly for the upcoming 2009-10 fiscal year.

FY 2008-09 Budget Reductions:

- Higher education started the fiscal year with lower base funding as compared to the prior year. Reductions for the colleges and universities were on the order of \$23 million or 3%. Adding in the recurring pay/health plan allocations that are provided for agencies from a transfer of funds from the Budget and Control Board, resulted in a net recurring decrease as compared to FY 2007-08 of \$15.5 million or 2%. In dollars, base operating budgets for colleges decreased in total dollars from \$757.6 million to \$742.1 million as of the beginning of the fiscal year.
- In October, the General Assembly held a special session to address the reductions in state revenue estimates for FY 2008-09. They passed a Rescission Bill (H.5300) which amended the Appropriations Act for FY 2008-09. The colleges and universities experienced significant reductions in funding and were cut an additional \$109.3 million or 15%, bringing base recurring funding down to \$632.8 million. Also of note, the state's scholarship programs continued to be fully funded and

were not reduced. With the passage of the Rescission Bill, there was a shift of \$10 million for LIFE scholarships from general funds to lottery funds which resulted in the appropriations for the Centers of Economic Excellence program being reduced in the lottery from \$10 million to zero. CHE and other higher education programs that flow through CHE as well as Tuition Grants administration were not exempted and received reductions similar to the institutions.

- In December 2008, the state's revenue estimates were again reduced. The result was the enactment of a 7% across-the-board reduction for state agencies including higher education. This cut meant additional reductions for the state's colleges and universities of \$44.2 million – bringing the total funding for colleges and universities down to \$588.5 million. Due to budget provisions, the state's scholarship and grant programs continued to be exempted from the reductions. CHE and other higher education programs that flow through CHE, as well as Tuition Grants administration, were not exempted and also received the 7% reduction.
- In March 2009, an additional 2% across-the-board cut was enacted. College and university funding was cut by \$11.8 million – bringing the total institutional base funding down to \$576.7 million. As of the March reductions, the resulting total reductions for colleges and universities as compared to FY 2007-08 is \$181 million or 24%. The funding level is similar to 1995 levels, not adjusted for inflation. Again, the state's scholarship and grant programs continued to be exempted from the reductions CHE and other higher education programs that flow through CHE, as well as Tuition Grants administration, were not exempted and also received the 2% reduction.
- On June 11, the Board of Economic Advisors met and once again voted to reduce the state's revenue estimates for FY 2008-09. The estimates were reduced by \$92 million (approximately 2%), and the reduction will have to be addressed, if necessary, through returned carry forward funds and available general reserve funds as the state's books are closed.

Table 1. Summary of FY 2008-09 Budget Reductions for Higher Education Institutions described above

	FY 2007-08	FY 2008-09			
		July 2008	Oct. 2008 Recision Bill	Dec. 2008 7% statewide	March 2009 2% statewide
Base Recurring Operating Funds for SC's Public Colleges and Universities	\$757.6 million	\$742.1 million	\$632.8 million	\$588.5 million	\$576.7 million
Cumulative Reduction compared to FY 2007-08	-	\$15.5	\$124.8	\$169.1	\$180.9
Cumulative Percent Reduction compared to FY 2007-08	-	2%	16.5%	22.3%	23.9%

FY 2009-10 Appropriations Act, ([H.3560](#))

The General Assembly finished its work on the FY 2009-10 budget on May 21 after considering gubernatorial vetoes. The budget includes three parts: Part 1A, recurring fund recommendations; Part 1B, temporary provisos or instructions relating to the expenditure of appropriated funds; and Part III, federal ARRA state fiscal stabilization funds for education and government services. (A copy of the Appropriations Act as ratified with the Governor's vetoes noted is available at http://www.scstatehouse.gov/sess118_2009-2010/appropriations2009/ta09ndx.htm .) Part III recommendations include allocations from a total of \$694 million in stabilization funds that are available to South Carolina for education and government services. Per the ARRA provisions, 81.8% of these funds must be provided to education and the remaining 18.2% to other government services. The stabilization funds received a great deal of focus because the Governor and General Assembly were at odds regarding the acceptance and application of the funds. Lawsuits were filed to compel the Governor to accept the funds. A federal district court considered the cases to determine whether the issue was appropriate for the federal or state court and acted to remand the cases to the state for consideration. The

S.C. Supreme Court considered the cases and on June 5 issued its ruling mandating the Governor apply for the funds. On June 8, the Governor filed the state's initial application with the U.S. Department of Education as required, thereby paving the way for the state to receive the education and government services ARRA funds. A resource memo for institutions regarding these funds is available on CHE's website at http://www.che.sc.gov/InfoCntr/ARRA/ARRA_Resource_Memo_Jun12_2009.pdf.

The state's budget will remain a concern in FY 2009-10. When the S.C.'s Board of Economic Advisors met on June 11, the Board not only acted to reduce the FY 2008-09 estimates as report above, but also voted to reduce the FY 2009-10 estimates by \$120 million. During its return session on June 16, the General Assembly took no action to address the lowered estimates. It is expected that the Budget and Control Board when it meets next will take action to do so with the most likely scenario being the use of the Capital Reserve Fund to address the reduction in the revenue estimates.

The following summarizes the FY 2009-10 budget recommendations:

- **Recurring base funding** for institutions is level with the current FY 2008-09 level (i.e., \$576.7 million). CHE and Tuition Grants received small administrative cuts, \$24,415 and \$7,543, respectively, but otherwise level funding.
- **Federal stimulus stabilization funds for education and government services** are included as described above in Part III of the budget. The General Assembly recommended that approximately half of the stabilization funds (\$348,004,163) that are available to S.C. will be allocated in FY 2009-10. The remaining available funds are to be allocated in FY 2010-11. For higher education, the FY 2009-10 allocation is \$99,922,339 and is distributed across the colleges and universities relative to the shortfalls in funding experienced since FY 2007-08 per federal provisions. K-12 receives an allocation of \$184,922,339 for base student costs and \$63,159,477 is allocated across other state agencies, including primarily public safety and prisons. Included among these later allocations is an allocation of \$364,440 for the University Center of Greenville.
- **Scholarship/Grant Programs:** Merit-scholarship programs (Palmetto Fellows, LIFE and HOPE) are fully funded for anticipated growth. It is noted, however, that the appropriations remain approximately level with FY 2008-09 allocations since it is expected that there are sufficient carry forward funds from the merit-based scholarship allocations to cover the anticipated growth in the upcoming year. Need-based Grants are funded at this year's base level with an additional \$1.5 million in nonrecurring or one-time funds to be provided. Tuition Grants and Lottery Tuition Assistance Programs are funded at the current levels. (Note: HOPE and Lottery Tuition Assistance receive only lottery funds. The other programs receive a mix of lottery and recurring base funds. A summary table is provided for the merit-based and need-based scholarship and grant programs.)

Table 2. Summary of scholarship and grant appropriations for FY 2009-10

	Palmetto Fellows	LIFE	HOPE	Lottery Tuition Assistance	Need-based	SC Tuition Grants*	National Guard Tuition Assistance
General Fund	\$12,000,000	\$71,033,307	\$0	\$0	\$12,000,000	\$21,802,247	\$0
Lottery Funds	\$30,277,240	\$85,256,682	\$7,823,474	\$47,000,000	\$11,631,566	\$7,766,604	\$1,700,000
Other Nonrecurring	These programs will receive any excess unclaimed prize funds after \$20.87 million in appropriated expenditures from these funds.				\$1,500,000		
Total	\$42,277,240	\$156,288,989	\$7,823,474	\$47,000,000	\$25,131,566	\$29,568,851	\$1,700,000

* Program administered by the SC Tuition Grants Commission. All other programs administered by CHE.

- **Other lottery programs for higher education** are funded at the current level (i.e., Lottery Technology for 2-yr and 4-yr at \$12 million, Higher Education Excellence Enhancement Program at \$4.7 million, S.C. State at \$2.5 million, Centers of Economic Excellence* at zero, Critical Needs Nursing Initiative at \$1 million in excess unclaimed prize funds, Technical College Allied Health Initiative at \$4 million in excess unclaimed prize funds, and the Technical College CATT program at \$2 million in excess unclaimed prize funds.) [**It is noted that the Centers of Economic Excellence received \$30 million annually since the inception of the lottery. Last year the funding was reduced to \$10 million and then with the passage of the Rescission Bill to zero; Legislation was passed in 2008 that enables interest to be used for awards.*]
- **Other nonrecurring allocations for higher education:** The University Center of Greenville (UCG) was provided \$635,560 in nonrecurring funds through budget provisos 90.19 and 90.21 in addition to \$364,440 in federal stabilization funds and just under \$360,000 in base recurring funds. (Note: UCG lost nonrecurring funds that had been received consistently in previous years. The \$1 million in nonrecurring funds for FY 2009-10 that has been appropriated (nonrecurring and federal stimulus) assists with the deficit created by the loss of the FY 2008-09 nonrecurring funds but does not result in a net program increase over the past year.)
- **Temporary Budget Provisos included in the Appropriations Act as Part 1B Provisions:** The following list includes select provisos of interest for higher education or related to all agencies and impacting higher education that are NEW or AMENDED for FY 2009-10. The full text of the proviso is provided below. New language is underlined and italicized. Strikethrough denotes deleted text. Bolded and italicized text indicates a proviso vetoed by the Governor that was sustained by the General Assembly.
 - **6.22.** (CHE: Need-Based Grant Allocation Methodology) Need-based grant funds for public institutions must be allocated using a methodology that considers state resident Pell Grant recipients such that each public institution shall receive an amount sufficient to provide a similar level of support per state resident Pell recipient when compared to tuition and required fees. However, no public institution shall receive ~~less~~ *a smaller proportion of* funding than would be provided under the student enrollment methodology used in ~~FY 2007-08~~ past years.
 - **6.23.** (CHE: Tuition Age) For Fiscal Year ~~2008-2009~~ 2009-10, the age limitation for those children of certain war veterans who may be admitted to any state-supported college, university, or post high school technical education institution free of tuition is suspended for eligible children that successfully appeal the Division of Veterans Affairs on the grounds of a serious extenuating health condition.
 - **6.24.** (CHE: Mandatory Furlough) In a fiscal year in which the general funds appropriated for an institution of higher learning are less than the general funds appropriated for that institution in the prior fiscal year, or whenever the General Assembly or the Budget and Control Board implements a midyear across-the-board budget reduction, agency heads for institutions of higher learning and the State Board for Technical and Comprehensive Education through policy and procedure for the Technical College System may institute employee furlough programs of not more than twenty working days in the fiscal year in which the deficit is projected to occur. The furlough must be inclusive of all employees in an agency or within a designated department or program regardless of source of funds, place of work, or tenure status, and must include employees in classified positions and unclassified positions as well as agency heads. A furlough program may also be implemented by pay band for classified employees and by pay rate for unclassified employees. Law enforcement, employees who provide direct patient or client care, and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. If the furlough includes the entire agency, the furlough must include the agency head. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency or individual institution. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily will count toward furlough days required by the mandatory furlough. During this furlough, affected employees shall be entitled to

participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits which require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, institutions will be responsible for making both employer and employee contributions during the time of the furlough if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions. Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Act. In the event an institution's reduction is due solely to the General Assembly transferring or deleting a program, this provision does not apply. The implementation of a furlough program authorized by this provision shall be on an institution by institution basis. Agencies may allocate the employee's reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs if that employee is non-exempt under the provisions of the federal Fair Labor Standards Act. State agencies shall report information regarding furloughs to the Office of Human Resources of the Budget and Control Board as requested.

- **6.25.** (CHE: University Center of Greenville Funding Plan) For the current fiscal year, the Board of the University Center of Greenville shall develop a plan by September 1, 2009, to address the annual operational funding needs of the University Center of Greenville. This plan shall be implemented to address the funding needs for Fiscal Year 2009-10. The plan may include a fee per credit hour assessed to institutions with students enrolled in the University Center of Greenville. Revenues collected shall not exceed \$1,100,000 for the current fiscal year.
- **6.26.** (CHE: Religious Activities) For Fiscal Year 2009-2010, state supported higher education institutions receiving Federal Stimulus Stabilization funds must continue to support, operate and maintain existing religious programs, instruction, and facilities used for religious activities.
- **6.27.** (CHE: Scholarships Funded From Unclaimed Capital Credits) For the current fiscal year, businesses identified in Section 27-18-30(C) of the 1976 Code who have contributed to a scholarship program at an institution of higher education in South Carolina from unclaimed capital credits for the last five consecutive years may continue to fund the scholarships for those students who were awarded scholarships prior to the 2009-2010 academic year, and such funds are exempt from the provisions of Section 27-18-30(C) provided that the reporting requirements of Section 27-18-180 are met.
- **17.4.** (MUSC: Preterm Birth Prevention) For Fiscal Year 2009-10, the Medical University of South Carolina shall implement a preterm prevention case management program utilizing a disease management coordination network for the Medicaid fee for service population in the Low Country Perinatal Region. The purpose of the program is to reduce premature births, neonatal morbidity and mortality, and the attendant costs for neonatal intensive care. The Department of Health and Human Services shall provide administrative funding to the Medical University of South Carolina for the cost of this program.
- **18.5.** (TEC: Caterpillar Dealer Academy) The area commission for the Florence-Darlington Technical College may waive the requirements of Chapter 112 of Title 59 for student participants in the Caterpillar Dealer Academy operated by Florence-Darlington Technical College.
- **18.6.** (TEC: Financial and Human Resource Functions Consolidation Plan) The State Board for Technical and Comprehensive Education is directed to develop a plan to consolidate financial and human resources functions, where possible, between like institutions of the state's technical college system. This plan, including an estimate of the cost savings, must be submitted to the Chairman of the Senate Finance Committee and the House Ways and Means Committee no later than December 31, 2009. South Carolina for the cost of this program.
- ***Proviso 80A.7 was vetoed by the Governor, and the General Assembly sustained the veto.**
80A.7. (BCB: Compensation - Agency Head Salary) In the event of an agency head or technical or community college president vacancy, the governing board of the agency or the Governor, or the appointing authority of a technical or community college president, must be in accord with and have

the prior favorable recommendation of the Agency Head Salary Commission to set, discuss, offer, or pay a salary for the agency head or technical or community college president at a rate that exceeds the minimum of the range established by the Agency Head Salary Commission. Boards and commissions of newly created agencies shall not offer or pay a salary to a prospective agency head until a salary range has been established and the salary approved by the Agency Head Salary Commission. The funding for the salaries of any agency head or technical or community college president should come from resources within the agency. The Budget & Control Board shall contract every four years for a study of agency head and technical or community college president compensation during the current year. The cost of the study must be shared by the participating agencies. The staff of the Budget and Control Board shall serve as the support staff to the Agency Head Salary Commission. Limited only by the maximum of the respective salary range, the General Assembly authorizes the respective appointing authority for an agency head or technical or community college president to provide salary increases for an agency head or technical or community college president only as recommended by the Agency Head Salary Commission. No agency head or technical or community college president shall be paid less than the minimum of the salary pay range nor receive an increase that would have the effect of raising the salary above the maximum of the pay range.

- **89.110.** (GP: Mandatory State Agency Furlough Program) In a fiscal year in which the general funds appropriated for a state agency, are less than the general funds appropriated for that agency in the prior fiscal year, or in a fiscal year in which an agency that is funded by other funds projects other funds collections to be less than in the prior fiscal year, or whenever the General Assembly or the State Budget and Control Board implements a mid-year across-the-board budget reduction, agency heads may institute employee furlough programs of not more than ten working days in the fiscal year in which the deficit is projected to occur.

The furlough must be:

- (1) inclusive of all employees in an agency or within a designated department or program regardless of source of funds or place of work, including all classified and unclassified employees in the designated area; or
- (2) based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or designated department respectively.

If the state agency will incur costs for overtime under the federal Fair Labor Standards Act, law enforcement employees and correctional employees may be exempted from a mandatory furlough.

Employees who provide direct patient or client care and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. The mandatory furlough must include the agency head. Constitutional officers are exempt from mandatory furlough. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency head, but under no circumstances should the agency close completely.

During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that that require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments are responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Procedure Act.

In the event the reduction for the state agency, institution, or department is due solely to the General Assembly transferring or deleting a program, this provision does not apply. The implementation of a furlough program authorized by this provision shall be on an agency-by-agency basis. Agencies may allocate the employee's reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily shall count toward furlough days required by the mandatory furlough.

The State Budget and Control Board shall promulgate guidelines and policies, as necessary, to implement the provisions of this proviso. State agencies shall report information regarding furloughs to the Office of Human Resources of the State Budget and Control Board.

The Office of Human Resources of the State Budget and Control Board must provide consultation and guidance to each state agency implementing a furlough or reduction in force regarding the long term career development of its employees and the potential financial benefit of implementing a furlough program or reduction in force.

This provision does not apply to employees of those state agencies or institutions covered by Section 8-11-193 of the 1976 Code, and Section 8-11-193, rather than this provision continues to apply to those employees in the manner provided by law.

- **89.116.** (GP: Transparency) State agencies must publish on their homepage a listing of all programs funded during the current fiscal year with funds from the American Recovery and Reinvestment Act of 2009 to include program name, location, starting date, and funding level. This listing must be updated quarterly to allow the public to easily identify how these funds are being used.
- **89.118.** (GP: ARRA Oversight) In order to provide transparency and accountability, and to maintain the separation of duties as provided by our Constitution, the State Treasurer and Comptroller General shall organize and co-chair a committee for monitoring funds associated with the American Recovery and Reinvestment Act of 2009. This committee shall collect information from state agencies and institutions regarding funds received from the American Recovery and Reinvestment Act of 2009. Information collected shall include, but not be limited to, the name of state agency or institution, the program designation, the purpose for which the funds were received and expended, and the amount of funds received and expended. The information shall also include data and documentation on job creation resulting from receipt of the federal stimulus funds and any other data or explanation as required by the American Recovery and Reinvestment Act of 2009. The co-chairs may also require local government entities to provide any information deemed relevant to provide disclosure of the American Recovery and Reinvestment Act of 2009 funds to the public, including audit reports.
- **89.121.** (GP: Printed Report Requirements) (A) For Fiscal Year 2009-10, state supported institutions of higher learning shall not be required to submit printed reports mandated by Sections 2-47-40, 2-47-50, and 59-103-110 of the 1976 Code, and shall instead only submit the documents electronically.
Submission of the plans or reports required by Sections 2-47-55, 59-101-350, 59-103-30, 59-103-45(4), and 59-103-160(D) shall be waived for the current fiscal year, except institutions of higher learning must continue to report under 2-47-55 year one of the Comprehensive Permanent Improvement Plan, student pass rates on professional examinations, and data elements otherwise required for the Commission on Higher Education Management Information System. The commission, in consultation with institutions, shall take further action to reduce data reporting burdens as possible.
(B) For Fiscal Year 2009-10, the Department of Agriculture shall not be required to submit printed reports mandated by Section 46-49-10 of the 1976 Code. The department shall provide these reports electronically and shall use any monetary savings for K5-12 agriculture education programs.
(C) For Fiscal Year 2009-10 the Department of Health and Human Services shall not be required to provide printed copies of the Medicaid Annual Report required pursuant to Section 44-6-80 of the 1976 Code and the Provider Reimbursement Rate Report required pursuant to proviso 21.16, and shall instead only submit the documents electronically.
(D) For Fiscal Year 2009-10 the Department of Commerce is prohibited from printing and distributing or mailing hard copy color brochures, that have been produced at department expense, to members of the General Assembly. Brochures or documents provided to members of the General Assembly shall only be produced in black and white.
(E) For Fiscal Year 2009-10, the Department of Transportation shall not be required to submit printed reports or publications mandated by Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code.
The Department of Transportation may combine their Annual Report and Mass Transit Report into their Annual Accountability Report.
- **89.125.** (GP: Fines and Fees Report) In order to promote accountability and transparency, each state agency must provide and release to the public via the agency's website, a report of all aggregate amounts of fines and fees that were charged and collected by that state agency in the prior fiscal year. The report shall include, but not be limited to: (1) the code section, regulation, or proviso that authorized the fines and fees to be charged, collected, or received; (2) the amount received by source; (3) the purpose for which

the funds were expended by the agency; (4) the amount of funds transferred to the general fund, if applicable, and the authority by which the transfer took place; and (5) the amount of funds transferred to another entity, if applicable, and the authority by which the transfer took place, as well as the name of the entity to which the funds were transferred. The report must be posted online by September 1st. Additionally, the report must be delivered to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee by September 1st. Funds appropriated to and/or authorized for use by each state agency shall be used to accomplish this directive.

- **89.126.** (GP: Information Technology Inventory) A governmental body, as defined by Section 11-35-310(18) of the 1976 Code, must conduct an inventory of information technology hardware. The information technology hardware subject to the inventory and the information required to be provided shall be defined by the technical collaboration work group established as part of the legislatively directed Statewide Strategic Information Technology Plan process. At a minimum, the inventory shall include: (1) the manufacturer, model number and date of acquisition of the information technology hardware; (2) a description of any software or firmware required for the operation of the information technology hardware; (3) the term, renewal options, and date of expiration of any maintenance agreements applicable to the information technology hardware; (4) the term and expiration date of any warranty periods applicable to the information technology hardware; and (5) a description of any service level agreements applicable to the information technology hardware. The governmental body must report the inventory and related information to the State Information Technology Planning Office as soon as practicable, but no later than October 31, 2009. The State Information Technology Planning Office shall present the information and options for establishing a statewide maintenance contract to the Agency Directors Technology Advisory Committee for review and recommendations as to whether cost savings can be achieved by uniting maintenance services for specific categories of information technology hardware under a state term contract.
- **89.133.** (GP: Mandatory Furlough) In a fiscal year in which the general funds appropriated for a state agency are less than the general funds appropriated for that agency in the prior fiscal year, or whenever the General Assembly or the Budget and Control Board implements a midyear across-the-board budget reduction, and agency heads institute a mandatory employee furlough program, in determining which employees must participate in the program, agency heads should give consideration to furloughs for contract employees, post-TERI employees, and TERI employees before other employees. During this mandatory furlough, the state employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits which require employer and employee contributions, the state agencies, institutions, and departments will be responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions. In the event an agency's reduction is due solely to the General Assembly transferring or deleting a program, this provision does not apply.
- **89.134.** (GP: Reduction In Force) In a fiscal year in which the general funds appropriated for a state agency are less than the general funds appropriated for that agency in the prior fiscal year, or whenever the General Assembly or the Budget and Control Board implements a midyear across-the-board budget reduction, and agency heads must make reductions in force, agency heads should give consideration to reductions of contract employees, post-TERI employees, and TERI employees before other employees. In the event an agency's reduction is due solely to the General Assembly transferring or deleting a program, this provision does not apply.
- **90.15.** (SR: State Budget Stabilization Fund) It is the intent of the General Assembly to accept all available funds from the State Budget Stabilization Fund contained within the American Recovery and Reinvestment Act of 2009 and to authorize expenditure of such funds as delineated in this act.
- **90.16.** (SR: ARRA Fund Authorization) It is the intent of the General Assembly to accept all available funds from the State Budget Stabilization Fund contained within the American Recovery and Reinvestment

Act of 2009. The Office of State Budget is directed to increase agency federal fund authorizations for funds from the State Budget Stabilization Fund allocated by the General Assembly.

DELETED PROVISOS:

- Several provisos were deleted because they had been codified or put in permanent law with the passage of Act 353 (S.530) of 2008. These included 6.10 (CHE: Mid-year reduction exemption), 7.1 (Tuition Grants: Mid-year reduction exemption), 15.5 (USC Beaufort Campus: Reciprocal Tuition), and 17.1 (MUSC: Family Practice Residency System).
- Another Proviso 6.21 (CHE: Higher Education Task Force) was deleted because the Task Force completed its work during the session and submitted its report to the General Assembly in April 2009. **The Committee's report, *Leveraging Higher Education for a Stronger South Carolina: An Action Plan*, and other information relating to the Committee's work is available on the Commission on Higher Education's website at http://www.che.sc.gov/HigherEd_ActionPlan.htm. The Commission on Higher Education is now focusing on the implementation of the Plan's recommendations.**

LEGISLATION

Bills ENACTED or Pending Final Action of the General Assembly

(Bills are listed in numeric order of the bill number with House bills (denoted by H.) listed first and followed by Senate bills (denoted by S.)

[H.3378 \(Act 8\)](#) was signed into law on May 6. This bill relates to the implementation of furloughs by state agencies and provides additional flexibility for state agencies. It is noted that higher education institutions were provided similar flexibility with amendments to budget proviso 6.24 in the Appropriations Act (see above).

[H.3616](#), a bill for technical colleges to provide Enterprise Campus Authority for several technical colleges (Aiken, Greenville, York, Spartanburg, and Orangeburg-Calhoun) was vetoed by the Governor and took effect following an override of the veto by the House and Senate. The House overrode the veto on May 20, and the Senate overrode the veto on June 16. This is similar to legislation passed in recent years for Midlands Technical College and Trident Technical College.

[H.3664 \(Act 2\)](#), the Higher Education Revenue Bond Act, amends Section 59-147-30, Code of Laws of South Carolina, 1976, relating to the issuance of revenue bonds under the provisions of the higher education revenue bond act, so as to clarify those eligible facilities which may be financed under the act; and to repeal section 59-147-120 relating to limitations on the issuance of certain revenue bonds.

[S.12](#), a bill to establish the South Carolina Taxation Realignment Commission, to provide for the commission's membership, powers, duties, and responsibilities, to provide that the commission must conduct a comprehensive study of the state's tax system and submit a report of its recommended changes to further the goal of maintaining and enhancing the state as an optimum competitor in the effort to attract businesses and individuals to locate, live, work, and invest in the state, and to provide for procedures governing the consideration of legislation resulting from the commission's recommendations was enrolled for ratification following the adoption of a Conference Committee report on June 16. The bill now awaits ratification and subsequent consideration and action by the Governor.

[S.97 \(Act 13\)](#) became law on May 7 without the signature of the Governor. This bill adds members from two counties to the Central Carolina Technical College Commission.

[S.593 \(Act 32\)](#) which enables concealed weapons permit holders to take guns on school campuses provided the weapon remains in a locked compartment of a vehicle was signed into law by the Governor on June 2.

[S.700](#) which authorizes USC to develop and construct a new facility for the Moore School of Business in the Innovista District on its Columbia Campus, became law without the signature of the Governor on June 2.

[S.116](#) relating to the consolidated procurement code was vetoed by the Governor and the veto was overridden on June 16 by the House and the Senate. The bill summary follows: An act to amend section [11-35-310](#), as amended, Code of Laws of South Carolina, 1976, relating to definitions for purposes of the consolidated procurement code, so as to delete the definition for "office"; to amend section [11-35-1524](#), as amended, relating to vendor preferences, so as to provide for preferences for end products from South Carolina and from the United States and for contractors and subcontractors who employ individuals domiciled in South Carolina, to define certain terms, provide for eligibility requirements for the preferences, provide for application for the preferences and penalties for false application, and to make exceptions to the preferences; to amend section [11-35-40](#), as amended, relating to compliance with federal requirements, so as to provide for compliance with the consolidated procurement code; to amend section [11-35-3215](#), relating to contracts for design services, so as to provide for a resident preference; and to repeal section [11-35-3025](#) relating to approval of change orders in connection with certain contracts.

[S.232 \(Act 19\)](#), relating to the state energy policy was vetoed by the Governor on June 2 and awaits consideration of the General Assembly. The bill summary follows: An act to amend the Code of Laws of South Carolina, 1976, by adding section [48-52-220](#) so as to define "renewable energy resources" for purposes of the South Carolina energy efficiency act; by adding article 12 to chapter 52, title 48 so as to require state agencies to consider and implement cost effective energy, water, and wastewater conservation measures, to provide for audits, and to provide for reports to the state energy office; to amend sections [48-52-210](#), [48-52-420](#), and [48-52-430](#), relating to the policies and purposes underlying the plan for energy policy, the duties of the state energy office, and the annual state energy action plan, so as to provide additional purposes and policies applicable to the plan for energy policy, provide that strategies of the State Energy Office promoting clean energy must include nuclear energy, renewable energy sources, and conservation and efficiency measures, and provide for additional reporting by that agency; and to amend section [58-3-530](#), as amended, relating to the powers and duties of the state regulation of public utilities review committee, so as to require an annual review of the state energy action plan for submission to the General Assembly.

Bills of note that remain under consideration for the 2010 Session

Higher Education Regulatory Relief Bills ([H.3365](#) for the research and four-year institutions and [H.3841](#) for the technical colleges) that were introduced this session passed the House. As of the end of the session, these bills remain in the Senate Education Committee. It is expected that these bills will be considered at the beginning of the 2010 session. The bills are expected to be considered jointly by Senate Education Committee and the Senate Finance Higher Education Appropriations subcommittee, and hearings may be held in the interim. A report on other higher education bills that were introduced and remain under consideration will be provided at a later date.

CHE REGULATIONS Approved During the Session

- ***Document #3196, SC National Guard Tuition Assistance Program*** – See <http://www.scstatehouse.gov/reg/3196.doc> . Approved by expiration of legislative review period on 3/9/09 and final published in the State Register Volume 33, Issue 3, 3/27/09. These regulations were submitted during the 2008 to add Regulations 62-250 through 62-263 to provide for the college assistance program for National Guard members that is administered by the Commission on Higher Education. The program was added with the passage of Act 40 of 2007, which amended Chapter 114, Title 59, Code of Laws of South Carolina, 1976.

- **Document #4031, LIFE Scholarship & LIFE Scholarship Enhancement** – See <http://www.scstatehouse.gov/regs/4031.docx> . Approved by expiration of legislative review period on 5/22/09 and final to be published in the State Register, Volume 33, Issue 6, 6/26/09. This regulation repeals former LIFE scholarship regulations 62-900.1 to 62-900.70 and replaces them with 62-1200.1 to 62.1200.75. The regulation clarifies policies and procedures for administering the LIFE Scholarship Program at the public and independent colleges and universities in the state and implements for the first time in regulation policies for awarding the LIFE Scholarship Enhancement for science and math majors that were enacted with the passage of Act 115 of 2007.
- **Document #4032, Needs-based Grant Program** – See <http://www.scstatehouse.gov/regs/4032.docx> . Approved by expiration of legislative review period on 5/22/09 and final to be published in the State Register, Volume 33, Issue 6, 6/26/09. The regulation amends provisions 62-475 (E) (1) (2) and 62-460 (A) of the South Carolina Need-based Grant Program by deleting “regular” academic year and revising the definition of “academic year” and “academic semester” to promote consistency in the grant program regulation.
- **Document #4033, Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement** - See <http://www.scstatehouse.gov/regs/4033.docx> . Approved by expiration of legislative review period on 5/22/09 and final to be published in the State Register, Volume 33, Issue 6, 6/26/09. Palmetto Fellows scholarship program regulations 62-300, et seq. are repealed and replaced in their entirety in order to clarify the policies and procedures for administering the program and to incorporate recent changes in law enacted with the passage of Acts 103 and 115 of 2007 and Acts 178 and 235 of 2008. The changes primarily relate to a student’s eligibility including: a revision of provisions for alcohol or drug-related misdemeanor offenses from the first to the second or subsequent offense; the use of class rank by students attending out-of-state preparatory schools to qualify for the Palmetto Fellows Scholarship, and the implementation for the first time in regulation criteria for the Palmetto Fellows Scholarship Enhancements for science and math majors.
- **Document #4034, Determination of Tuition and Fees** – See <http://www.scstatehouse.gov/regs/4034.docx> . Approved by expiration of legislative review period on 5/22/09 and final to be published in the State Register, Volume 33, Issue 6, 6/26/09. Regulations 62-600, et. seq., are being amended and replaced in their entirety to clarify the policies and procedures for determining residency for the purpose of tuition and fees. The amendments clarify the definition of a dependent, prohibit the use of voter registration cards to prove S.C. residency, and provide for the ability for institutional residency officers to develop an appeal process for students to challenge institutional residency decisions. Additionally, clarification to other provisions is made to promote consistency in definitions among the State institutions and their residency classification processes.